

**REMARKS**

Claims 1 and 14 have been amended. No new matter has been added.

**Claim Rejections under 35 U.S.C. §103**

Claims 1-3, 8-16 and 21-26 stand rejected under 35 U.S.C. §103(a) as unpatentable over Pieper (US 2003/0005419) in view of Cain ("Portable Software Library Optimization", 2/1998).

Claims 4-7 and 17-20 stand rejected under 35 U.S.C. §103(a) as unpatentable over Pieper in view of Cain and Kum (0-7803-5041-3/99, IEEE).

Independent claim 1 recites the following limitations:

optimizing the software program such that a resulting first optimized form of the software program is completely independent of the target processor and is at least partially coded in the high-level language, determining a first performance profile for the first optimized form of the software program, and comparing the first performance profile with the performance objectives.

Applicants respectfully submit that Pieper in view of Cain and Kum does not disclose or suggest such limitations.

In paragraph 30 and FIG. 2, Pieper discloses a procedure 50 of compiling higher level source code 52 into low level executable machine code 74. In the procedure 50, source code 52 is translated into an intermediate form 56 with a front end process 54. The intermediate code 56 is then optimized by optimization processes 58 to provide a more efficient code 60. According to Pieper, optimized code 60 output by the optimization processes 58 is in an intermediate level program code language that is substantially independent of the architecture of a target processor 12. Accordingly, Pieper specifically discloses that the optimized code 60 is substantially independent of the architecture of a target processor 12, and therefore, Pieper specifically discloses that a portion or part of the optimized code 60 is not independent. This assertion is conceded by the Office Action on page 8, section 7.

In contrast to Pieper, independent claim 1 requires optimizing the software program such that a resulting first optimized form of the software program is completely independent of the target processor and is at least partially coded in the high-level language. *Support for this*



*limitation of independent claim 1 can be found throughout the Applicant's specification, for example, in page 6, line 4 to page 7, line 18.*

Pieper does not disclose or suggest this limitation of the present claim. Instead, as noted above, Pieper explicitly teaches that a portion or part of the optimized code 60 optimized by optimization processes 58 is not completely independent of the target processor 12 because Pieper specifically teaches that the optimized code 60 is substantially independent of the architecture of a target processor 12. There is no teaching or suggestion in Pieper that a first optimized form of the software program is completely independent of the target processor and is at least partially coded in the high-level language, as required by the present claims.

The ancillary Cain and Kum references do not remedy the deficiencies of Pieper as discussed above with reference to amended independent claim 1.

For at least these reasons, it is respectfully submitted that independent claim 1, as amended, is not anticipated by the cited references.

For at least these same reasons, it is respectfully submitted that independent claim 14, as amended, is likewise not anticipated by the cited references.

Since claims 2-13 and 15-26 depend from independent claims 1 and 14, respectively, these dependent claims are also not anticipated and are therefore allowable over the cited references.



**Conclusion**

Based on the foregoing, all claims are believed allowable, and an allowance of the claims is respectfully requested. If the Examiner has any questions or comments, the Examiner is respectfully requested to contact the undersigned at the number listed below.

If the Commissioner determines that additional fees are due or that an excess fee has been paid, the Patent Office is authorized to debit or credit (respectively) Deposit Account No.

50-2518, billing reference no. 7017922001.

Respectfully submitted,  
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